

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA**

BUTTE DIVISION

PHYLLIS SAXON, SANDRA
IVERSON, and OLD WEST
SALOON, LLC,

Plaintiffs,
vs.

CITY OF DILLON, MONTANA, a
body politic, DILLON POLICE
CHIEF PAUL CRAFT, in his
individual and official capacity,
DILLON POLICE CHIEF DONALD
GUIBERSON, in his individual and
official capacity, and OFFICER
JOSEPH HORROCKS, in his
individual and official capacity and
JOHN DOES 1-X,

Defendants.

No. CV 19-16-BU-SEH

ORDER

On December 7, 2020, the Court issued its Order granting Defendant Horrocks' dismissal of all remaining claims asserted against him in Count I of the

Second Amended Complaint¹ for alleged violations of constitutional rights to protection from excessive force of either Plaintiff.

The Order of December 7, 2020,² memorialized the Court's finding and conclusion that Officer Horrocks' actions and conduct giving rise to the claims of excessive force asserted in Count I did not, as a matter of law, support a viable claim by either Plaintiff to alleged violations of a constitutional right to protection from excessive force. That finding and conclusion, squarely presents to the Court for resolution the issue of whether, in the absence of a claim for violation of a protected constitutional right, any claim for failure to train or supervise remains viable.³

ORDERED:

1. Plaintiffs and Defendants shall have to and including December 18, 2020, in which to file a brief directed to the issue of whether, in light of the Court's Order dismissing all claims in Count I, the claims asserted in Count II of the Second Amended Complaint⁴ remain viable.

¹ Doc. 27.

² Doc. 169.

³ See *City of Los Angeles v. Heller*, 475 U.S. 796, 799 (1986); See also *Smith v. City of Wyoming*, 821 F.3d 697, 707 (6th Cir. 2016).

⁴ Doc. 27.

2. Response briefs will be due on or before December 28, 2020.

Optional reply briefs will be due on or before January 4, 2021.

DATED this 7th day of December, 2020.


SAM E. HADDON
United States District Judge